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Interior Immigration Enforcement Legislation

Introduction

I would like to thank the chairman of the subcommittee, and all members of the Judiciary Committee for the opportunity to speak on behalf of many vulnerable American workers to support these immigration enforcement bills. They begin to address the egregious injustice which has de facto allowed illegal migrant workers to evade the letter and intent of American immigration, labor, and criminal justice laws such as working with, cooperating with, and paying international human smugglers. American laws are meant to protect American workers and keep our communities safe. When civil or criminal laws are not enforced against any group or class for any reason, that group or class has a de facto privileged status under American law, whether formally recognized or not. When that privileged status goes to noncitizens who benefited from breaking labor and immigration laws by working, this surpasses any similar benefit available to American citizens.

As an African American this is a particularly sensitive issue for me. First, African Americans have paid dearly for the long fight for equal citizen benefits. African Americans have long suffered in the past from the stringent enforcement of American laws such as those enforcing segregation, and when some of these citizen benefits evaporate because labor, immigration, and civil and criminal laws are not enforced against noncitizens, this breach against the American birthright should not be allowed to continue. Modern social science has linked the effects of increasing illegal immigrants working in fields where African Americans work to measurable negative effects on African American workers. These measurable effects show a correlation of higher immigration with low wages and increased incarceration.

This injustice is further compounded because vulnerable low-skilled workers who are disproportionately African American are denied access to jobs that should be available to them but are not, because American laws are not adequately enforced, especially in the interior of the United States away from the borders. The portions of Mr. Gowdy's interior enforcement bill that grant state and localities the authority to enforce immigration laws and the portions which protect American communities from dangerous criminal aliens would be no-brainers and not be needed if illegal alien workers had not achieved this privileged status evading the enforcement of immigration and labor laws. While illegal worker contact with the American criminal justice system is suppressed, ignored or devalued, the African-American community contact with the criminal justice system is enhanced and in contrast becomes a major factor in the denial of employment opportunities.

Immigrant Worker Privilege Versus African American Citizenship

The greatest evidence of illegal immigrant worker privilege is the fact that these workers who have violated immigration and labor laws (and possibly document fraud laws) are able to keep jobs they were never eligible to get in the first place. I define immigrant worker privilege as basically the non-enforcement of laws or sanctions for the protection of American workers toward the overwhelming majority of illegal migrant workers.

The false contention that “immigrants take jobs Americans won’t do” would be correct if it stated “immigrants take jobs Americans can’t get.”¹ Contrary to popular belief, American workers are the overwhelming majority in all the major fields of immigrant employment -- specifically construction, the services, and light manufacturing. The fact that 83% of all construction workers in America are American demonstrates how fallacious the immigrant employment myth really is. The use of illegal migrant workers in construction in lieu of young African American workers is a source of both frustration and despair in African-American communities. The critical section of Mr. Gowdy’s bill that grants states and localities the authority to enforce immigration laws can be a vital tool for the local African American activists and local political leadership to start to bring construction jobs home.

The recent testimony by our IRS Commissioner John Koskinen before a U.S. Senate subcommittee further reinforces how the illegal worker privilege further trumps the needs of American citizens who did not get access to the jobs held by the illegal immigrant workers. Koskinen testified that those millions of illegal workers who will benefit from the announced deferred deportation will not only get the right to keep their jobs with work permits, but they will also be eligible to collect billions of dollars from the U.S. Treasury in the form of retroactive earned income tax credits(EITCs). The clear intent of Congress was not only that illegal immigrant workers should not be working but also they were clearly never expected to be recipients of our income tax credits. Meanwhile there is no response toward American citizens who will be denied both the jobs and the earned income tax credits.

The Asylum Reform and Border Protection Act of the last Congress (HR 5137) had some provisions that need to be enacted to offset some of the illegal immigrant worker privilege in contrast to American citizens. American citizens should not be penalized for involvement in the criminal justice system while illegal immigrant workers, gang members, and illegal alien parents who game the system by placing children at risk with smugglers evade legal consequences for their actions. This legislation would keep out and help remove gang members. Being against this proposal implies we don’t have enough gang members of our own. Other provisions such as the non-preferential treatment in asylum cases, the clear definition of an unaccompanied minor, and federal agency information-sharing need to be enacted.

¹ Steven A. Camarota.”From Bad to Worse: Unemployment and Underemployment Among Less Educated US-Born Workers, 2000 to 2010. “ Washington DC. Center for Immigration Studies. August 2010.

In contrast, between 70 and 100 million American citizens pay heavy costs for their involvement in the criminal justice system resulting in lifelong socioeconomic challenges. But now let's examine the scale of this injustice in greater depth.

In contrast to illegal alien workers, extensive contact of the African-American community with the criminal justice system leads to inferior labor market opportunities and can cause increased criminal behavior. Some recent researchers have noted that this is an issue whose consequences extend beyond the inmate to destruction of families and communities.² There is no doubt of its disproportionate impact on the African American community.³ A Center for American Progress report estimates that 87% of employers, 80% of landlords and 66% of colleges use criminal and credit background checks to screen and/or eliminate applicants. There is another equal justice concern of how this disproportionately impacts African-Americans in contrast to illegal alien workers. There are millions of people and especially a great many African-Americans who been arrested-- even for exercising their constitutional rights to protest--- and were never convicted or incarcerated but still carried the strain of having criminal charges come up in a background check. Illegal immigrant workers should not be able to avoid enforcement of American laws, nor should they be denied negative consequences for contact with the criminal justice system while American citizens, especially African American citizens, pay a heavy price. These bills are steps in the right direction but the focus of American laws should first be to benefit American citizens.

As significant as the privilege of non-enforcement of American laws are in criminal justice for illegal immigrant workers in comparison to American citizens, their economic benefits by providing, in fact, preferential job access is even more significant. Let us now take a look at the benefits from working by illegal migrant workers when American workers not able to find employment.

Economic Benefits of Illegal Alien Worker Privilege and the Costs to Low Skilled American Workers

It is important to point out that the economic environment for the American middle, working, and poor classes has been declining during the last four decades of high legal and illegal immigration. Millions of American jobs disappeared in the 1990, 2001 and 2008 recessions.⁴ Many of these jobs were manufacturing and middle-skill jobs that have not returned. These losses were not solely due to immigration but primarily to increased capital-intensive automation and outsourcing of increasingly higher order tasks. One result of the loss of these jobs for the middle class has been more competition for the former middle class workers with those seeking jobs requiring less skill and less pay. One result of this is that wages for the median family have not increased in real terms in more than 40 years,

² Robyn J.A. Cox. "Where Do We Go From Here? Mass Incarceration and the Struggle for Civil Rights," Economic Policy Institute, January 16, 2015.

³ See Michelle Alexander, The New Jim Crow: Mass Incarceration in an Age of Color Blindness, The New Press, New York, 2012.

⁴ Jim Tankersley, "Moonlighting To Keep Up," Washington Post Weekly, January 11, 2015, p.14.

even though workers have become more productive.⁵ If this wasn't enough, we are still experiencing the loss of retail employment as more and more move online for shopping and purchasing.

The pressure on American jobs from outsourcing during our period of globalization requires special mention. Increasingly American outsourcing has impacted not just the call centers and less-skilled employment, but increasingly is affecting more skilled employees such as architects, engineers, and medical image analysts. One of the best estimates is that between 22 and 29% of all U.S. jobs are or will be potentially offshorable within a decade or two. We're talking about possibly between 28 and 34 million jobs. Furthermore, there seems to be no correlation between an occupation's offshorability and the skill of its workers as measured in either educational attainment or wages.⁶ What this means is that all jobs, especially less-skill jobs, do not face skill shortages that require immigration. It also means that jobs that require less skill are increasingly important for Americans who have no other choices. The proposed legislation is a step in the right direction if adequately enforced.

One of the greatest results of immigrant privilege is immigrants, including illegal immigrants, have a higher median household income than African-Americans. Census figures show that median African American household income as of 2010 was \$32,000 while the latest figures for median immigrant income was almost \$36,000. Both of these figures are from the Bureau of Labor Statistics March 2011 consumer price survey, which asked about income in the prior calendar year.⁷ Best estimates of the number of jobs held by illegal immigrant workers is more than eight million.⁸ This is while many African Americans and almost 10,000,000 Americans search for a job.

High rates of illegal immigrant employment have been clearly tied to measurable negative impacts on the African American community. Scholars have found a correlation between immigration, black wages, and black incarceration rates. Correlation demonstrates an association but not causation. Yet the impacts are measurable. Labor is not exempt from the law of supply and demand. When immigration increases the supply of workers in a skill group that competes with black workers, wages for the black workers fell, the employment rate declined, and the incarceration rate rose. One study suggested that a 10% increase in illegal immigrant workers resulted in a reduction of black worker wages by 3.6%, a lowered employment rate of black men by 2.4%, and an increase in the incarceration rate by a full percentage point.⁹ If African-Americans are going to be incarcerated because of factors exacerbated by immigration, surely we need interior enforcement laws such as the ones before this sub-committee, to protect American communities from dangerous criminal aliens, reduce gang membership, stop

⁵ Ibid.

⁶ Alan S Binder, "How Many US jobs Might Be Offshorable?," *World Economics*, Vol.10, Number 2, 2009, pages 41 to 78.

⁷ Census data at <http://www.census.gov/prod2011pubs/p60-239.pdf>. See also <http://www.cis.org/sites/cis.org/files/articles/2012immigrants-in-the-united-states-2012.pdf>.

⁸ See Pew Hispanic Center data at http://www.pewhispanic.org/files/2014/11/20/14-11-18_unauthorized-immigration.pdf.

⁹⁹ George Borjas, Jeffrey Grogger, and Gordon Hanson. "Immigration and African American Employment Opportunities: the Response of Wages, Employment and Incarceration to Labor Supply Shocks." National Bureau of Economic Research Working Paper number 12518.

inadmissible aliens from gaming the system, and end the preferential treatment for asylum applicants over other immigrants compliant with the law.

Addressing the Border Surge

African-American communities expressed among themselves the fact that many Americans identified with the mass migration of Central American children of illegal aliens was another example of immigrant privilege. Many Americans did not seem to show an equal sensitivity and concern about the vulnerability of many American citizens, especially African American citizens, to gang violence in places such as Chicago, Los Angeles, and other gang hotspots.

The Obama administration continues to value preferential rights for illegal immigrant families by requesting that taxpayers fund lawyers for what are basically civil immigration cases. This is a time when poor and working class Americans need all the legal help they can get in facing numerous civil matters that are often exacerbated by the lack of jobs and competition with illegal immigrant workers.

The legislative proposals we are discussing today address the inequity of taxpayer-funded attorneys for civil matters, and the unfairness of preferential asylum claims not available to other aliens who abided by our laws. The short-circuiting of the critical fear of prosecution should not be tolerated because it devalues its use by legitimate victims.

Conclusion

In most of the examples above I have focused upon the need for better enforcement of immigration laws to reduce the labor market impact caused by illegal immigration. Considering that there are approximately 1.8 job applicants for every available job and more than 1.5 million Americans who drop out of the workforce because they have long sought jobs without success, Congress urgently needs to move these bills forward.